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| <b>Bath &amp; North East Somerset Council</b> |   |   |
| MEETING/<br>DECISION<br>MAKER:                | <b>Cabinet</b>  |   |
| MEETING/<br>DECISION<br>DATE:                 | <b>9<sup>th</sup> March 2023</b>                          | EXECUTIVE<br>FORWARD PLAN<br>REFERENCE: |
|   |   | E3441                                   |
| TITLE:  | <b>Options for Bus Franchising in the West of England</b> |   |
| WARD:   | All   |   |
| <b>AN OPEN PUBLIC ITEM</b>                    |   |   |
| <b>List of attachments to this report:</b>    |   |   |
| None  |   |   |

## **1 THE ISSUE**

- 1.1 Bath & North East Somerset Council (B&NES) has declared both a Climate and Ecological Emergency and is looking to provide leadership to enable both carbon neutral B&NES by 2030 and greater citizen engagement.
- 1.2 Transport currently accounts for 29% of carbon emissions in the B&NES area. Ensuring the transport network can enable residents to shift to more sustainable modes is an essential part of the Council's Journey to Net Zero strategy.
- 1.3 The regulation of passenger-carrying motor vehicles was introduced by the Road Traffic Act 1930. This Act marked the beginning of comprehensive state intervention in the bus industry by its introduction of both quality and quantity regulation. The Act remained virtually unchanged until the 1980s. The structure of the bus industry had changed little over the 50 years to 1980, but the market in which it operated had altered dramatically with the increased use of the private car. Bus patronage halved between the 1960s and 1980s.
- 1.4 In parallel with this the bus industry was finding that operating costs, fares and levels of subsidy were increasing. Almost all companies suffered from a shortfall between revenue from fares and their operating costs. Consequently, to retain the network of services and maintain fares at acceptable levels, in line with their statutory obligations to provide co-ordinated public transport, local authorities were asked to make good the losses by subsidy payments.

- 1.5 Proposals to deregulate local bus services were published in the 1984 buses White Paper. They were brought into effect by Part I of the Transport Act 1985. This abolished road service licensing in Great Britain, except in London, from October 1986. Since 1986, almost uniquely in the developed world, buses in Britain (outside London) have been organised on a predominantly commercial basis, on a free market basis.
- 1.6 This has resulted in the licensing authorities losing many of their former powers and a position where anyone, subject to minimum safety and operating standards can operate bus services. Bus operators are free to decide which services they run, the fares they will charge and the vehicles they will use. Local Authorities were given powers to secure, using subsidy, socially necessary services which were not provided by the commercial market.
- 1.7 The deregulation of the bus market has resulted in profitable routes and times of day being flooded with buses at the expense of other routes and times. Consequently, services have become unstable and confusing; the quality of vehicles has fallen whilst fares in many places have risen sharply. Services which could not be run commercially, previously cross-subsidised from the profits of busier routes, now had to be supported by the taxpayer. The money available for this has fallen dramatically over the last ten years, causing severe cuts to supported services.
- 1.8 For public transport to be a viable option for our communities it needs to be frequent, reliable, fast, affordable, accessible, safe, comfortable, and link up the places where people live and want to go.
- 1.9 In the Bus Back Better Strategy of 2021, the Government set out its support for Local Transport Authorities to access franchising powers as a way of delivering improvements for passengers at pace.
- 1.10 This report proposes that a review is undertaken by the West of England Combined Authority (WoECA) (as the Local Transport Authority) to thoroughly consider the opportunity offered by franchising to improve the public transport offer within the West of England.

## **2 RECOMMENDATION**

### **The Cabinet is asked to:**

1. Request the Council's Leader formally write to the WoECA Mayor requesting that the Mayor:
  - a. commissions an independent review of options for the franchising of bus operations with the West of England, including considering the adoption of precepting powers; and provides a fully costed business case for the recommended changes engages fully with each of the WoECA constituent authorities at all stages of the review;
  - b. Provides regular updates to the Planning, Transport and Housing Board on the progress of the review.

### 3 THE REPORT

- 3.1 In May 2022, Bath & North East Somerset Council adopted the Journey to Net Zero Strategy, establishing a vision of a new transport network that will dramatically reduce transport carbon emissions from their current level of 29% of B&NES' total emissions.
- 3.2 Following a series of stakeholder workshops, a number of key aims were established within Journey to Net Zero. In particular, the need for: Better public transport options delivering a range of public transport choices to improve connectivity for all was identified.
- 3.3 As part of the consultation in early 2021, more than half of respondents considered improved public transport options to be important, with universal, integrated ticketing and provision of mobility hubs being the most supported concepts. Around half of respondents considered better bus services to be important, with use of cleaner fuels and improved coordination of bus services as the most important concepts.
- 3.4 The current system is not delivering the standards of public transport provision that will enable our communities to depend on it, helping us to deliver our net zero targets. Following the motion adopted at full Council in October 2022, franchising needs to be considered as a means through which these improvements can be delivered more quickly for the communities within B&NES. In response to the motion the Council has called upon the WECA Mayor to develop a co-ordinated, imaginative, long-term approach to public transport in our area, through bus franchising or equivalent across the West of England area.
- 3.5 Franchising allows a contracting authority, such as a local transport authority to specify the local bus services it wants including the routes, services, fares and vehicle standards through contracts with operators. Operators compete through a tendering process for the right to operate services in an area. Franchising keeps competition in the bus market, but moves it from the road, where bus operators compete for passengers at bus stops, to the tender process.
- 3.6 Franchising powers are only available automatically to Mayoral Combined Authorities (MCAs) but can be provided to other Local Transport Authorities (LTAs) through secondary legislation. Local transport authorities must also follow a statutory process to introduce franchising.
- 3.7 The Bus Services Act 2017 amended the Transport Act 2000 to provide for bus franchising schemes in England. Franchising powers allow local transport authorities to exert more influence and control over local bus services by granting operators exclusive rights to run services on a route or in an area. These exclusive rights can be applied to the whole of a local transport authority's area or parts of it. Likewise, contracts can be let to a single operator for a whole network.
- 3.8 There has been increasing interest in franchised bus models recently, fuelled by the 2017 Bus Services Act and more recently the National Bus Strategy for England. This promises to support authorities wishing to access franchising powers. Manchester will shortly be adopting the franchise model following a recent judicial review of the decision. In terms of timeframe, the first round of franchised bus services is likely to be introduced in early to mid-2023, with the

expectation that by 2025, all bus services across the city region will be under public control. Meanwhile, Liverpool City Region Combined Authority voted to begin the adoption of a franchised bus system. The next step involves an independent assessment on bus franchising in the city region as well as a public consultation.

- 3.9 Following deregulation in 1986, bus services operated under a free market model outside London. This means that anyone (subject to minimum safety and operating standards) could operate bus services. Bus operators were free to decide which services they ran, the frequency of these services, the fares they would charge and the vehicles they would use. This resulted in an uncoordinated network with operators focussing on the most profitable journeys, with local transport authorities having to pay operators to run journeys and some routes that are socially necessary.
- 3.10 As well as deregulation a number of restrictions were also placed on the subsidised bus services that were provided by local councils. The 1985 Transport Act restricted local authorities to essentially only be allowed to subsidise a bus service to fill a gap in provision. The services a local authority subsidises must not distort the local commercial bus market.
- 3.11 More recently, following the publication of the National Bus Strategy Bus Back Better, the West of England prepared a Bus Service Improvement Plan (BSIP). The BSIP sets out a clear vision for bus services in the future and a set of improvements in a number of key areas. Delivery of the initiatives set out in the BSIP is due to be achieved through an Enhanced Partnership approach where the West of England Combined Authority and local authorities work in partnership with local bus operators.
- 3.12 It is important to note that bus franchising is not renationalisation of local buses - private operators will still provide services. The franchising provisions would replace the latest Enhanced Partnership scheme and before that the Quality Contract Scheme (QCS) legislation as set out in the Transport Act 2000. The latest Enhanced Partnership scheme is a statutory partnership between the Local Transport Authority, WECA and local bus operators that sets out how they will work together to plan and deliver improvements to bus services and infrastructure.
- 3.13 Under bus franchising, the deregulated bus market is suspended, and bus operators are only able to provide services under contract to the local transport authority. This approach is used extensively across Europe, in London and elsewhere as it offers a range of significant advantages that are impossible under partnership including integrated ticketing, network planning, cross subsidy across bus services and other modes and unified marketing. In essence, franchising brings together the strengths of private operators in efficient service delivery but within a co-ordinated and planned public transport network.
- 3.14 From the passenger perspective, franchising enables:
- A simple, unified and integrated ticketing and product set under one brand (which competition law prevents in a deregulated environment)
  - A single identity for bus services and potentially other public transport modes, which is easy to understand for new users
  - A unified, easy to use network of integrated public transport services

- Consistent standards of service, including vehicle, driver and customer care standards
- One accountable body, integrated real time information and a single point of contact for customers

3.15 From transport authority perspective, franchising provides for

- Greater levels of connectivity, where more effective cross-subsidy allows the development of a comprehensive network, and allows closer integration with other modes such as active travel and rail, enabling more people to better access employment, education, training, retail, leisure and other opportunities.
- A more attractive network is easier to use and to market to new customers and visitors, encouraging patronage growth which in turn can help drive healthy revenues.
- Helping reduce car dependency, emissions and highway congestion as more people make use of an integrated public transport network and active travel modes
- Enables existing resources and subsidies to be pooled efficiently, driving better value from the high levels of public support and reducing leakage into excess operator profits.

3.16 From operator perspective, franchising offers:

- A growing, stable and enduring market for operators
- The freedom to focus on service delivery, making sure buses run reliably and punctually, enhancing customer care and delivering on contractually guaranteed service standards – such as cleanliness, reliability and safety and security

## **4 STATUTORY CONSIDERATIONS**

4.1 Similar to other combined authorities the WoECA is the Local Transport Authority as defined in Section 108(4) of the 2000 Act.

4.2 The decision to adopt the franchised model for bus provision via Transport for Greater Manchester (TfGM), on behalf of Greater Manchester Combined Authority (GMCA), will see the GMCA owning bus depots and determining services, fares and frequencies through local contracts awarded to bus companies

## **5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

5.1 Staff time contributions to the review will be met from the existing staffing resources within B&NES.

5.2 Under the current devolution deal, WoECA does not have the power to raise a Mayoral precept. Other Mayoral Combined Authorities do have precepting powers, whereby they can raise a precept on Council Tax to fund mayoral responsibilities, including public transport, as part of their annual budget setting process.

## 6 RISK MANAGEMENT

6.1 Appropriate consideration of risks will need to be undertaken by WoECA as part of the review.

## 7 EQUALITIES

7.1 An equalities impact assessment will need to be prepared by WoECA as part of the review.

## 8 CLIMATE CHANGE

8.1 B&NES Council has declared both a Climate and Ecological Emergency and is looking to provide leadership to enable carbon neutral B&NES by 2030 and enable greater citizen engagement.

8.2 Transport currently accounts for 29% of carbon emissions in the B&NES area. Ensuring the transport network can enable residents to shift to more sustainable modes and that sustainable transport is the first choice of travel in all cases is an essential part of the Journey to Net Zero strategy.

## 9 OTHER OPTIONS CONSIDERED

9.1 The current West of England Enhanced Partnership (EP) Scheme (made in accordance with Section 138G(1) of the Transport Act 2000) could be retained and not modified.

9.2 It is considered that franchising could provide a better mechanism for improving the transport network within the West of England.

## 10 CONSULTATION

10.1 It is proposed that engagement with the public should be undertaken as part of the review of options for franchising.

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| <b>Background papers</b>   | None   |
| <b>Please contact the report author if you need to access this report in an alternative format</b> |  |